

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14595, of T. Talley and R. McAlear, pursuant to Paragraph 8207.11 (3107.2 DCMR 11) of the Zoning Regulations, for variances from the prohibition against allowing an addition to a nonconforming structure now exceeding the lot occupancy requirements (Paragraph 7105.12, 2001.3(a) DCMR 11), the lot occupancy requirements (Sub-section 3303.1, 403.2 DCMR 11), and from the prohibition against allowing an addition to a nonconforming structure, which addition increases the nonconformity with respect to lot occupancy (Paragraph 7105.12, 2001.3(c) DCMR 11) for a proposed rear addition to a single family dwelling in the R-1-B District at premises 3301 Nebraska Avenue, N.W., (Square 1604, Lot 827).

HEARING DATE: May 13, 1987

DECISION DATE: May 13, 1987 (Bench Decision)

1. The site, known as premises 3301 Nebraska Avenue, N. W., is located at the northeast corner of the intersection of Nebraska Avenue and Macomb Street, N. W. The site is located in an R-1-B District.
2. The site is triangular in shape with a frontage of 72.20 feet along Nebraska Avenue, a frontage of 98.92 feet along Macomb Street and an east property line of 68.47.
3. The site is improved with a two story brick home built in 1936. On May 12, 1958, the effective date of the current Zoning Regulations, the structure became nonconforming as to lot occupancy.
4. Pursuant to Sub-section 3107.2, DCMR 11, the applicants seek variances to allow an addition to a non-conforming structure and from the lot occupancy requirements.
5. The Applicants' kitchen now measures eight feet by ten feet. The Applicants propose to enlarge the kitchen to ten feet by 16 feet by enclosing the rear porch (measuring eight feet by four feet) and extending it two and one half feet.

6. The lot comprises 2,444 square feet which is less than half the size required by the current Zoning Regulations for the R-1-B District.
7. The addition will be a one story frame structure. The rear yard provided for the structures will be greater than 25 feet.
8. By letter dated March 20, 1987, the Advisory Neighborhood Commission (ANC) 3-D report that it voted to urge the Board of Zoning Adjustment to grant the Applicants' request for an expedited hearing and bench decision.
9. Neighbors of the site submitted letters to the record in support of the application.
10. Person, interesting in testifying in favor or opposition to the application where given a chance to do so.

CONCLUSION OF LAW AND OPINION:

Based on the findings of fact and the evidence of record, the Board concludes that the Applicants are seeking area variances, the granting of which requires a showing through substantial evidence of practical difficulty upon the owner arising out of some unique or exceptional condition of the property such as exceptional narrowness, shallowness, shape or typographical conditions. The Board further must find that the relief requested can be granted without substantial detriment to the public good and that it will not substantially impair the intent, purpose and integrity of the zone plan.

Paragraph 2001.3 (a) of the Zoning Regulation's prohibits the construction of an addition to a non-conforming structure now exceeding the maximum allowable percentage of lot occupancy. Paragraph 2001.3 (c) prohibits an addition which increases the non-conforming aspect of the structure. Sub-section 4031.2 allows for a lot occupancy of 40 percent or 977.6 square feet for the R-1-B District. The existing structure occupies 1,051.26 square feet. The addition will occupy another 90.82 square feet necessitating a variance of 164.48 square feet, or 16.8 percent.

The Board concludes that the Applicants have met the burden of proof. The existing structure is a non-conforming structure. The unusual shape of the lot, which is triangular, and its exceptionally small size, less than half that now required for the R-1-B District, create a practical difficulty for the owners. The Board notes the small size of the addition, comprising an extension of the existing porch

two and one half feet, and concludes that the relief requested can be granted without substantial detriment to the public good and that it will not substantially impair the intent, purpose integrity of the zone plan.

Accordingly, it is hereby ORDERED that the application is GRANTED SUBJECT to the CONDITION that construction shall be in accordance with the plans marked as Exhibit No. 6 of the record.

VOTE: 4-0 (Paula L. Jewell, Mabelle T. Bennett, William F. McIntosh and Charles R. Norris to grant; Carrie L. Thornhill not present, not voting)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


EDWARD L. CURRY
Acting Executive Director

FINAL DATE OF ORDER: _____

Jan 20 1991

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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